

CHOWAN COUNTY NOISE CONTROL ORDINANCE

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SEC. 1. AUTHORITY TO REGULATE

The authority to regulate, restrict, or prohibit the production or emissions of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens, is conferred upon the counties by NC General Statutes 153A-133.

SEC. 2. DECLARATION OF POLICY

It is hereby declared to be the policy of the Chowan County Board of Commissioners to prevent unreasonably loud, disturbing or unusually excessive noise. It is the intention of the Chowan County Board of Commissioners to maintain a low noise level within Chowan County so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within Chowan County for its inhabitants and residents alike. The Chowan County Board of Commissioners finds that every person is entitled to have noise levels maintained which are not detrimental to life, health, and enjoyment of property and that unusually excessive and unreasonable noise within Chowan County is a menace to the public health, safety and welfare, and the comfort of the people of Chowan County.

SEC. 3. DEFINITIONS

"Common Carrier", is defined as any motor vehicle for hire by the public or/and motor vehicle that is part of a public transportation system.

"Emergency", is defined as any condition that exists or is imminent during a time of public crisis, disaster, rioting, catastrophe, or similar public emergency.

"Emergency Work", is defined as work that is made necessary to restore property to a safe condition, work required to protect, provide or prevent persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

"Impulsive Sounds", is defined as sounds of short duration, usually less than one second, with an abrupt onset and rapid decay. (Examples of sources of impulsive sound include explosions, drop forge impacts and discharge of firearms.)

"Legal Holiday", is defined as any day defined in the North Carolina General Statutes 103-4(a).

"Motor Vehicles", is defined as every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, as defined in G.S. 20-4.01(23)(27).

"Noise Sensitive Zone", is defined as any area within 200 feet from the property line of any school, church, nursing home, hospital or funeral home, day care facility or Court.

"Public Right-of-Way", is defined as any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.

"Public Space", is defined as any real property or structures thereon which are owned or controlled by a governmental entity.

"Public Waterways", is defined as any navigable waters not privately owned.

"Residential Area", is defined as an area designated for any residential use under the Chowan County Zoning Ordinance.

"Subdivision", is defined as an area designated for any residential use under the Chowan County Subdivision Ordinance.

"Unnecessary Noise", is defined as any excessive or unusually loud sound or any sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any person or causes damage to property of business.

SEC. 4. POWERS AND DUTIES OF THE ENFORCING BODY

A. POWERS OF THE SHERIFF:

In order to implement and enforce this Ordinance effectively, the Sheriff of Chowan County or his deputies shall have, in addition to any other authority vested in him, the power to conduct inspections.

1. When granted valid consent, by the owner or some other person with apparent authority to provide valid consent and upon presentation of credentials enter and inspect any private property or place and inspect any report or record at any reasonable time. When permission by the owner is refused or cannot be obtained, a search warrant or other court order may be sought by the officers from a court of competent jurisdiction upon a showing of probable cause to believe that a violation of this Ordinance may exist.

2. Stop any motor vehicle, motorcycle, or motorboat operated on the public right-of-way, public space, or public waterway; when probable cause exists to believe that a violation of this Ordinance has occurred, and reasonably test and inspect the same at the site to determine whether a violation of this Ordinance has occurred.

B. DUTIES OF THE SHERIFF: In order to implement and enforce this Ordinance effectively, the Sheriff of Chowan County or his deputies shall investigate and pursue possible violations of this Ordinance.

SEC. 5. PROHIBITED ACTS

A. Unlawful Noise:

In addition to any other violation of this Ordinance, it shall be unlawful to emit any unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise. Specifically, it shall be unlawful to emit noise of such character, intensity or duration as to be detrimental to the life or health of any individual.

B. Specific Prohibitions:

The following acts, among others, are declared to be unreasonably loud, disturbing and unusually excessive noises in violation of this Ordinance, but such enumeration shall not be exclusive:

1. Radios, Television Sets, Musical Instruments and Similar Devices: It shall be unlawful to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in such a manner as to create an unlawful noise; or in such a manner as to create an unnecessary noise at fifty feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a motorboat or other vessel which operates on public waters; or, in such a manner as to create an unnecessary noise to any person other than the operator of the device, when operated by any passenger on a common carrier.

2. Loudspeakers and Public Address Systems: It shall be unlawful to use or operate for any purpose any loudspeaker, public address system, or similar device such that the sound therefrom creates an unlawful noise within any residential area or within any noise sensitive zone; or, creates an unlawful noise on a public right-of-way or public space.

3. Firearms: The firing or discharging of any firearm in the street or elsewhere for the purpose of making noise or disturbance.

4. Noise Sensitive Zones: After being forbidden to do so, creating or causing the creation of any sound within any noise sensitive zone designated pursuant to section 3, as to disrupt the activities normally conducted within the zone.

SEC. 6. EXCEPTIONS

1. Emergency Exception: The provisions of this Ordinance shall not apply to the emission for sound for the purpose of alerting persons to the existence of an emergency; or to the emission of sound in the performance of emergency work as that term is defined in SECTION 3.

2. Permit Exception: The provisions of this Ordinance shall not apply for activities described in a permit issued by the Chowan County Manager. However no permit will be issued in a residential area without written permission from persons living within 200 feet of the described activity.

3. The provisions of this Ordinance shall not apply to areas outside of platted subdivisions within Chowan County whether approved or not, nor to any agricultural, or industrial related activities.

4. The provisions of this Ordinance shall not apply to the use of any residential lawn care equipment used during the hours of 6:00 a.m. and 11:00 p.m.

SEC. 7. PRESUMPTIONS/BURDEN OF PERSUASION

1. The owner, individual or group of individuals in apparent control of the residence or noise device shall be the responsible party for application of this Ordinance.

2. The complaints of two or more persons, at least one of whom resides in a different home from the other complaining person or persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is unreasonably loud, disturbing, and annoying or unnecessary noise. Sound emission decibel measuring shall not be required for establishment of a prima facie case.

3. In any proceeding pursuant to this Ordinance, if an exception may be applicable to limit an obligation to comply with the regulations herein, the person who would benefit from the application of the exception shall have the burden of persuasion that the exception applies and that the terms of the exception have been met.

SEC. 8. VIOLATION

In accordance with North Carolina General Statutes 14-4, effective October 1, 1991, violation of any section of this Ordinance shall constitute a misdemeanor punishable

by a fine of not more than five hundred dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both.

SEC. 9. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its ratification.

This the 1st day of June, 1992.

R. Wayne Goodwin, Chairman

Nancy B. Morgan, Clerk